

# Migrant and Seasonal Agricultural Worker Protection

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## The Migrant and Seasonal Agricultural Worker Protection Act (MSPA), as amended (29 USC §1801 *et seq.*; 29 CFR Part 500)

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### Who is Covered

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) safeguards most migrant and seasonal agricultural workers in their interactions with farm labor contractors, agricultural employers, agricultural associations, and providers of migrant housing. However, some farm labor contractors, agricultural employers, agricultural associations, and providers of migrant housing are exempt from MSPA under limited circumstances.

### Basic Provisions/Requirements

The MSPA requires farm labor contractors, agricultural employers, and agricultural associations who recruit, solicit, hire, employ, furnish, transport, or house agricultural workers, as well as providers of migrant housing, to meet certain minimum requirements in their dealings with migrant and seasonal agricultural workers. These requirements include:


- **Farm labor contractor registration:** Farm labor contractors (and any employee who performs farm labor contracting functions) must register with the Department of Labor before recruiting, soliciting, hiring, employing, furnishing or transporting any migrant or seasonal agricultural worker. Agricultural employers and associations (and their employees) need not register as farm labor contractors.

An agricultural employer or association using the services of a farm labor contractor must first verify the registration status of the farm labor contractor. This process includes determining that the contractor is properly authorized for all activities he or she will undertake. To verify registration status call 1-866-4USWAGE.

- **Employment relationship:** Under certain circumstances, the Department of Labor may determine that an agricultural employer or association that uses the services of a farm labor contractor is a joint employer of the agricultural workers furnished by the farm labor contractor. In joint employment situations, the agricultural employer or association is equally responsible with the farm labor contractor for compliance with employment-related MSPA obligations, such as the proper payment of wages.

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- **Disclosure:** Each migrant and seasonal day-haul worker must receive a written disclosure at the time of recruitment that describes the terms and conditions of his or her employment. When offering employment, the employer must provide such disclosure to all seasonal workers upon request. The disclosure must be written in the worker's language. The employer must also post in a conspicuous place at the job site a poster setting forth the rights and protections that MSPA affords workers. A housing provider must post or present to each worker a statement of the terms and conditions of occupancy.
  - **Information and Recordkeeping:** Each farm labor contractor, agricultural employer or association that employs any agricultural worker must maintain payroll records for each worker showing the basis on which wages were paid, the number of piecework units earned, the number of hours worked, the total pay for each pay period, the amounts and reasons for any deductions, and the net pay.

The employer must provide all workers with these itemized statements and must preserve these records for three years. If a farm labor contractor is performing the payroll function, the contractor must provide a copy of the pay records to the person to whom the workers are furnished (e.g., agricultural employer or association), and that person must keep the records for three years. No farm labor contractor, agricultural employer, or association may knowingly provide false or misleading information to a worker about employment or the terms and conditions of employment.

- **Wages, Supplies, and Working Arrangements:** Each person employing agricultural workers must pay all wages owed when due. Farm labor contractors, agricultural employers, and associations are prohibited from requiring workers to purchase goods or services solely from such contractor, employer, or association, or any person acting as an agent for such a person. In addition, no farm labor contractor, agricultural employer, or association may violate the terms of the working arrangement without adequate justification.
- **Safety and Health of Housing:** Each person who owns or controls housing provided to migrant agricultural workers must ensure that the facility complies with the federal and state safety and health standards covering that housing. Migrant housing may not be occupied until it has been inspected and certified to meet these safety and health standards. The certification of occupancy must be posted at the site.
- **Transportation Safety:** Each vehicle used to transport migrant or seasonal agricultural workers must be properly insured and operated by a properly licensed driver. Each such vehicle must also meet federal and state safety standards.
- **Employer Protections:** Farm labor contractors must comply with the terms of any written agreement they make with an agricultural employer or association.
- **Enforcement:** The Wage and Hour Division of the Employment Standards Administration enforces MSPA. During a MSPA investigation, Wage and Hour investigators may enter and inspect premises (including vehicles and housing), review and transcribe payroll and other records, and interview employers and employees.



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## Employee Rights

The MSPA provides migrant agricultural workers and day-haul seasonal agricultural workers the right to receive written notice of the terms and conditions of their employment when recruited; it provides seasonal workers the right to receive such notification upon the worker's request. The MSPA also requires employers of migrant and seasonal agricultural workers to adhere to the disclosed terms and conditions of employment. Certain exemptions and exclusions apply to these provisions.

The MSPA also gives migrant and seasonal agricultural workers the right to file a complaint with the Wage and Hour Division, file a private lawsuit under the Act (or cause a complaint or lawsuit to be filed), or testify or cooperate with an investigation or lawsuit in other ways without being intimidated, threatened, restrained, coerced, blacklisted, discharged, or discriminated against in any manner.

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## Compliance Assistance Available

More detailed information, including explanatory brochures and regulatory and interpretative materials, may be obtained from the Wage and Hour Division's Web site ([www.wagehour.dol.gov](http://www.wagehour.dol.gov)) or by contacting the Wage and Hour Division's local offices ([www.dol.gov/esa/contacts/whd/america2.htm](http://www.dol.gov/esa/contacts/whd/america2.htm)). Information about farm labor contractor applications is available from the nearest State Workforce Agency office (1-866-4-USA-DOL) or any Wage and Hour Division office. For additional compliance assistance, contact the Wage and Hour Division help line at 1-866-4USWAGE.

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## Penalties/Sanctions

Violations of MSPA may result in civil money penalties, back wage assessments, and revocations of certificates of registration. Violations may also result in civil or criminal actions instituted by the Department of Labor against any person found in violation of the Act. Civil money penalties up to \$1,000 may be assessed for each violation. Criminal conviction for first time violators may result in one year in prison and a \$1,000 fine; repeat convictions can result in up to three years in prison and \$10,000 in fines. In addition, individuals whose MSPA rights have been violated may seek civil money damages in federal court.

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## Relation to State, Local, and Other Federal Laws

MSPA supplements any state or local law. Compliance with MSPA does not excuse violation of applicable state laws or regulations.